

REMARKS/ARGUMENTS

This amendment is being filed in response to the Office action mailed February 15, 2007. Reexamination and reconsideration of the application as amended and in view of the remarks herein is respectfully requested.

Objection to the Drawings

The drawings have been objected to as failing to show a “means for measuring a predetermined characteristic of a received signal.” The Examiner has required corrected drawings or cancellation of the feature from the claims.

Applicant respectfully submits, however, that a “means for measuring a predetermined characteristic of a received signal” is clearly shown in original FIG. 6. In particular, block 605 of FIG. 6 is described in the specification as a “Q-factor measurement apparatus” for measuring the system Q-factor. See page 14, lines 1-7. The Q-factor is described as a characteristic of the received signal. See page 13, lines 17-20. As such, Applicant believes the drawings meet the requirements of 37 C.F.R. 1.83(a), and requests that the objection to the drawings be withdrawn upon reconsideration.

Claim Amendments

Claims 28-36, 51-55, 73 and 99-104 have been cancelled without prejudice. These claims may be prosecuted in a continuation application. Claims 37-43 and 45-46 have been amended to change their dependency from claim 35 to claim 2. No new matter has been added.

35 U.S.C. §102

Claims 1, 10-13, 16-18, 28-29, 32-34, 56, 64-66 and 73 have been rejected under 35 U.S.C. §102(e) as being anticipated by Taga et al. (U.S. Patent No. 5,872,647, hereinafter "Taga").

Applicant enclose herewith a "Declaration Under to 37 C.F.R. 1.131" establishing invention of the subject matter of independent claims 1, 56 and 74 prior to the effective U.S. filing date of Taga. In particular, Taga has an effective U.S. filing date of December 4, 1996. The enclosed declaration establishes that a system incorporating the subject matter of independent claims 1, 56 and 74 was actually constructed and observed to work for its intended purpose prior to December 4, 1996. See "*Declaration Under 37 C.F.R. 1.131*", ¶¶ 4-9. Exhibit A of the attached declaration includes details of the system configuration, shows the transmitted eye diagram, and reports the resulting Q-factor. See "*Declaration Under 37 C.F.R. 1.131*", ¶¶ 5-9. Exhibit A was created prior to the effective U.S. filing date of Taga. See "*Declaration Under 37 C.F.R. 1.131*", ¶ 6.

In view of the attached "Declaration Under to 37 C.F.R. 1.131" Applicant respectfully submits that Taga may not be cited as prior art to independent claims 1 and 54 under 35 U.S.C. §102(e). At least for this reason, Applicant respectfully request that the rejection of independent claims 1 and 56 under 35 U.S.C. §102(e) as being anticipated by Taga et al. (U.S. Patent No. 5,872,647) be withdrawn upon reconsideration. Claims 28-29, 32-34 and 73 have been cancelled without prejudice, rendering the rejection thereof moot. Claims 10-13, 16-18 and 64-66 depend, either directly or ultimately, from independent claims 1 or 56, and are allowable over the art of record by virtue of their dependency, as well as for their own limitations.

35 U.S.C. §103

Claims 3, 5-9, 14-15, 19, 31, 58, 60-63 and 67 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga. Claim 31 has been cancelled without prejudice, rendering the rejection thereof moot. As discussed above Taga may not be cited as prior art to independent claims 1 and 56. Claims 3, 5-9, 14-15, 19, 58, 60-63 and 67 depend, either directly

or ultimately, from independent claims 1 or 56, and are allowable over the art of record by virtue of their dependency, as well as for their own limitations. Applicant respectfully requests, therefore, that the rejection of these claims under 35 U.S.C. § 103(a) in view of Taga be withdrawn upon reconsideration.

Claims 2, 4, 35-45, 51-55, 57, 59, 74-89, 99 and 101-104 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga combined with Meissner et al. (U.S. Patent No. 5,060,311). Claims 35-36, 51-55, 99 and 101-104 have been cancelled without prejudice, rendering the rejection thereof moot. As discussed above Taga may not be cited as prior art to independent claims 1, 56 or 74. Claims 2, 4, 37-45, 57, 59 and 75-89 depend, either directly or ultimately, from independent claims 1, 56 or 74, and are allowable over the art of record by virtue of their dependency, as well as for their own limitations. Applicant respectfully requests, therefore, that the rejection of these claims under 35 U.S.C. § 103(a) in view of Taga combined with Meissner et al. be withdrawn upon reconsideration.

Claims 20, 22-27 and 69-72 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga combined with Kitajima et al. (U.S. Patent No. 5,515,196). As discussed above Taga may not be cited as prior art to independent claims 1 or 56. Claims 20, 22-27 and 69-72 depend, either directly or ultimately, from independent claims 1 or 56, and are allowable over the art of record by virtue of their dependency, as well as for their own limitations. Applicant respectfully requests, therefore, that the rejection of these claims under 35 U.S.C. § 103(a) in view of Taga combined with Kitajima et al. be withdrawn upon reconsideration.

Claims 46-50 and 90-98 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga combined with Meissner et al and Kitajima et al. As discussed above Taga may not be cited as prior art to independent claims 1 or 74. Claims 46-50 and 90-98 depend, either directly or ultimately, from independent claims 1 or 74, and are allowable over the art of record

by virtue of their dependency, as well as for their own limitations. Applicant respectfully requests, therefore, that the rejection of these claims under 35 U.S.C. § 103(a) in view of Taga combined with Meissner et al and Kitajima et al. be withdrawn upon reconsideration.

Claim 100 has been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga combined with Meissner et al and Takayama et al. Claim 100 has been cancelled without prejudice, rendering the rejection thereof moot.

Claims 21, 30 and 68 have been rejected under 35 U.S.C. § 103(a) as being obvious in view of Taga combined with Kitajima et al. and Takayama et al. Claim 30 has been cancelled without prejudice, rendering the rejection thereof moot. As discussed above Taga may not be cited as prior art to independent claims 1 or 56. Claims 21 and 68 depend, either directly or ultimately, from independent claims 1 or 56, and are allowable over the art of record by virtue of their dependency, as well as for their own limitations. Applicant respectfully requests, therefore, that the rejection of these claims under 35 U.S.C. § 103(a) in view of Taga combined with Kitajima et al. and Takayama et al. be withdrawn upon reconsideration.

Double Patenting

Claims 1 and 56 have been rejected for obviousness-type double patenting over U.S. Patent Nos. 5,946,119, 6,556,326 and 6,744,992. Applicant encloses herewith appropriate terminal disclaimers to obviate these double-patenting rejections.

Early and favorable action is respectfully solicited. In the event there are any fee deficiencies, or additional fees are payable, please charge, or credit any overpayment to, our Deposit Account No. 50-2121.

RESPECTFULLY SUBMITTED,

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